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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/931,575

08/16/2001

Scott G. Newnam

58850/G476

2412

23363 7590 05/29/2008  
CHRISTIE, PARKER & HALE, LLP  
PO BOX 7068  
PASADENA, CA 91109-7068

EXAMINER

BOVEJA, NAMRATA

ART UNIT

PAPER NUMBER

3622

MAIL DATE

DELIVERY MODE

05/29/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/931,575	<b>Applicant(s)</b> NEWNAM ET AL.	
	<b>Examiner</b> NAMRATA BOVEJA	<b>Art Unit</b> 3622	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 February 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 August 2001 and 18 April 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>02/04/2008</u> .  | 6) <input type="checkbox"/> Other: _____                          |

### DETAILED ACTION

1. This office action is in response to the RCE communication filed on 02/04/2008.
2. Claims 1-32 are presented for examination.
3. Amendments to claims 1, 6-8, 12-15, 17, 19, 22, 25, and 27-32 have been entered and considered.

### **Claim Rejections - 35 USC § 103**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. *Claims 1-4, 6-10, 17, 19, 21, 27-29, 31, and 32, are rejected under U.S.C. 103(a) as being unpatentable over Swix et al. Patent Number 6,718,551 (hereinafter Swix) in view of Grube (6,026,366 hereinafter Grube).*

*In reference to claims 1 and 27, Swix discloses a method and system for enhancing a broadcast video program comprising: transmitting interactive content from a server system to a plurality of different types of local devices over a data communications network (col. 7 lines 19-42, col. 10 lines 28-33, and Figures 1 and 2), the content related to the broadcast video program (col. 7 lines 19-42), each of the plurality of local devices storing the transmitted interactive content in a local data store coupled to the local device (col. 6 lines 60 to col. 7 lines 11, col. 11 lines 34-57, and col. 12 lines 4-13); identifying by the server system the different types of local devices receiving the transmitted interactive content that are to provide interactivity with the*

*interactive content (col. 3 lines 61-64 and col. 10 lines 7-19); and during the broadcast of the video program, the server system transmitting to the plurality of different types of local devices over the data communications network one or more messages to command the local devices to retrieve the content identified by the one or more messages from their respective local data stores to display the identified content on the different types of local devices (col. 11 lines 34-57 and col. 12 lines 60 to col. 13 lines 9).*

*Swix does not specifically teach selecting by the server system a plurality of different base software programs for the identified types of local devices; transmitting by the server system over a data communications network a corresponding one of the plurality of selected base software programs to each of the plurality of different types of local devices based on the identified type; wherein each of the plurality of selected base software programs receives and interprets the one or more messages from the server system and displays the interactive content in accordance with requirements associated with the type of local device.*

*Grube teaches selecting by the server system a plurality of different base software programs for the identified types of local devices (abstract, col. 2 lines 49-65, col. 4 lines 14 to col. 5 lines 18, and Figures 1 and 2); transmitting by the server system over a data communications network a corresponding one of the plurality of selected base software programs to each of the plurality of different types of local devices based on the identified type (abstract, col. 2 lines 65-67, col. 5 lines 19-25, and Figures 1 and 2); wherein each of the plurality of selected base software programs receives and*

*interprets the one or more messages from the server system and displays the interactive content in accordance with requirements associated with the type of local device (col. 5 lines 38-49). It would have been obvious to modify Swix to include selecting by the server system a plurality of different base software programs for the identified types of local devices; transmitting by the server system over a data communications network a corresponding one of the plurality of selected base software programs to each of the plurality of different types of local devices based on the identified type; wherein each of the plurality of selected base software programs receives and interprets the one or more messages from the server system and displays the interactive content in accordance with requirements associated with the type of local device to ensure that the broadcasted content is displayed to the users properly update the initially installed navigator software as needed to display different media formats.*

5. *In reference to claim 2, Swix discloses a method wherein the content and messages are sent via Internet Protocol (i.e. the filer server is the web server) (col. 8 lines 43-45).*

6. *In reference to claim 3, Swix discloses a method further comprising, in response to an advertisement being broadcast, the server system selecting one additional advertisement from a plurality of different advertisements tailored to different users, the one advertisement being related to, and for display at the same time as, the broadcast advertisement (col. 7 lines 31-51).*

7. *In reference to claim 6, Swix discloses a method wherein the broadcast video is broadcast over television, radio, or the Internet (col. 6 lines 26-38, col. 7 lines 43-51, col. 12 lines 61 to col. 13 lines 9, and Figure 1).*

8. *In reference to claim 8, Swix discloses a method further comprising transmitting the interactive content before the broadcast video program begins for storage on the local device, and transmitting messages by the server system during the video program to identify content to be displayed during the event (col. 11 lines 3-57 and col. 12 lines 60 to col. 13 lines 9).*

9. *In reference to claims 7 and 9, Swix teaches the method further comprising transmitting the interactive content to the different types of local devices during the broadcast of the video program (col. 10 lines 26-33); storing the transmitted interactive content in each of the local data stores coupled to the different types of local devices (col. 6 lines 60 to col. 7 lines 11, col. 11 lines 34-57, and col. 12 lines 4-13); and later transmitting messages by the server system to identify the transmitted interactive content to be displayed (col. 11 lines 34-57 and col. 12 lines 60 to col. 13 lines 9).*

10. *In reference to claim 10, Swix discloses a method wherein the messages do not include Internet addresses (col. 7 lines 48-51 and col. 11 lines 38-43).*

11. *In reference to claim 17, Swix does not specifically disclose a method wherein each of the selected base software programs includes a device-specific configuration file for interpreting the one or more messages.*

*Grube inherently teaches the method wherein each of the selected base software programs include a device-specific configuration file for interpreting messages (i.e. if a*

Art Unit: 3622

*base software program is sent, and then later on the most sends a message to disable the software, the base software has to be configured to interpret the future messages from the host) (col. 5 lines 38-49). It would have been obvious to modify Swix to include a device-specific configuration file for interpreting messages in each of the selected base software programs to enable each of the devices to properly display the content for the user.*

12. *In reference to claim 19, Swix discloses the method further comprising: maintaining by the server system multiple local advertisement messages directed toward different users or groups of users (i.e. a group of users can be formed on the basis of the particular program the users view) (col. 12 lines 60 to col. 13 lines 36); and responsive to an advertisement being broadcast with the broadcast event, selecting by the server system one of a plurality of the local advertisements for causing that advertisement to be displayed additionally to the user at the same time as the advertisement in the broadcast video program (col. 12 lines 60 to col. 13 lines 36).*

13. *In reference to claims 4 and 21, Swix teaches the method further comprising the server system maintaining user profiles, wherein the server system selects the selected local advertisement and the one additional advertisement based on the user profiles (col.7 lines 31 to col. 8 lines 2, col. 9 lines 17-54, and col. 10 lines 26-33).*

14. *In reference to claim 28, Swix teaches the method, wherein the one or more messages transmitted by the server system is timed with a particular event of the broadcast video program to command the local devices to retrieve the content identified by the one or more messages from the local data stores to display the identified content*

*in a manner that is synchronized with the particular event of the broadcast video program (col. 12 lines 60 to col. 13 lines 54).*

15. *In reference to claim 29, Swix teaches the method, wherein timing of the display of the interactive content is directed by the one or more messages transmitted by the server system and not from any triggers embedded in the interactive content (col. 13 lines 24-36).*

16. *In reference to claim 31, Swix teaches the method, wherein the plurality of the different types of local devices include two or more selected from the group consisting of a personal computer, set-top box, net-top device, and wireless device (abstract, col. 3 lines 65 to col. 4 lines 52, and Figure 1).*

17. *In reference to claim 32, Swix teaches the method, wherein the one or more messages are concurrently transmitted to the plurality of different types of local devices (col. 4 lines 53-57 and col. 7 lines 43-51).*

18. *Claims 5 and 20 are rejected under U.S.C. 103(a) as being unpatentable over Swix in view of Grube and further in view of Stewart et al (6,414,635 hereinafter Stewart).*

*In reference to claims 5 and 20, Swix does not teach the method wherein the server system selects the one additional local advertisement based on the user's location.*

*Stewart teaches the method wherein the server system selects the one additional local advertisement based on the user's location (col. 5 lines 18-24 and col. 13 lines 36-54).*

*It would have been obvious to modify Swix to include the server system selecting the one additional local advertisement based on the user's location to deliver better targeted*



*advertisements to users based on whether the user is at home, hotel, or a gym for example that will be more relevant to the user based on the user's location at the time of the broadcast.*

19. *Claims 11-14, 18, and 22 are rejected under U.S.C. 103(a) as being unpatentable over Swix in view of Grube and further in view of Shoff et al. Publication Number US 2001/0001160 A1 (hereinafter Shoff).*

*In reference to claim 11, Swix does not teach a method wherein at least two of the different types of local devices are programmed to display the interactive content in a manner different from each other in terms of location of content on a display. Shoff discloses a method wherein at least two of the different types of local devices are programmed to display the interactive content in a manner different from each other in terms of location of content on a display (page 6 paragraph 68-69 and 76, page 7 paragraph 78, and Figures 2, 4, 7, 8a, 8b, and 8c). It would have been obvious to modify Swix to include programming two different types of local devices to display the interactive content in a manner different from each other in terms of location of content on a display to ensure that the viewer is able to view the entire content completely without portions being cut off from a screen.*

20. *In reference to claim 12, Swix does not teach a method wherein the broadcast video program is displayed and the broadcast video program and the interactive content are provided on the same display in different windows. Shoff discloses a method wherein the broadcast video program is displayed and the broadcast video program and the interactive content are provided on the same display in different windows (i.e.*

*panes, screens, or pop-ups) (page 1 paragraph 10, page 6 paragraphs 68 and 76, page 7 paragraph 78, and Figures 1, 7, 8a, 8b, and 8c). It would have been obvious to modify Swix to have the broadcast video program displayed and the broadcast video program and the interactive content provided on the same display in different windows to enable the viewer to control when the user wants to see the interactive content and when the user wants to see the broadcast video program.*

21. *In reference to claim 13, Swix does not teach displaying the broadcast video program, wherein the broadcast video program and the interactive content are provided on the separate displays. Shoff discloses a method further comprising displaying the broadcast video program, wherein the broadcast video program and the interactive content are provided on the separate displays (i.e. on a television screen and a computer screen) (page 2 paragraphs 15-18 and Figures 2 and 4). It would have been obvious to modify Swix to display the broadcast video program, wherein the broadcast video program and the interactive content are provided on the separate displays to enable the viewer to view the broadcast video program on the television screen and the interactive content on the computer screen and to enable the viewer in deciding when he would like to view each program.*

22. *In reference to claim 14, Swix does not teach interactive content to include content applicable to multiple episodes of a broadcast event for display during each of the episodes and other content that is applicable to specific episodes for display during the respective specific episodes. Shoff discloses a method wherein the interactive content includes content applicable to multiple episodes of a broadcast event for display*

*during each of the episodes (i.e. advertisements associated with Star Trek or Seinfeld in general) (page 3 paragraph 40 and Figure 3), and other content that is applicable to specific episodes for display during the respective specific episodes (i.e. surveys associated with that particular broadcast) (page 6 paragraph 76). It would have been obvious to modify Swix such that interactive content includes content applicable to multiple episodes of a broadcast event for display during each of the episodes, and other content that is applicable to specific episodes for display during the respective specific episodes to enable for the downloading of the interactive content ahead of time from the server to prevent any delays in downloading this content while the broadcast event is taking place.*

23. *In reference to claim 18, Swix does not teach a method wherein a first type of local device is programmed to use the content from the server system in one manner and a second type of local device is programmed to use the content from the server system in another and different manner. Shoff discloses a method wherein a first type of local device is programmed to use the content from the server system in one manner and a second type of local device is programmed to use the content from the server system in another and different manner (i.e. can be used to toggle between contents by use of buttons, can be used to invoke a pop up box, can be used to see a URL on a computer screen linking to a website, and can be used to view data on a disc in the disc drive when instructed to do so by the server) (page 3 paragraphs 40-43, page 4 paragraph 51, and page 6 paragraph 70-76). It would have been obvious to modify Swix such that a first type of local device is programmed to use the content from the*

*server system in one manner and a second type of local device is programmed to use the content from the server system in another and different manner to ensure the user can view the content properly depending on the size and type of device that is used to deliver the content.*

24. *In reference to claim 22, Swix does not teach the method wherein the selected local advertisement is provided to a computer and the broadcast video program provided to a television. Shoff discloses the method wherein the selected local advertisement is provided to a computer (page 2 paragraphs 15,16, and 29, page 4 paragraph 51, and Figure 4) and the broadcast video program provided to a television (page 1 paragraph 2, page 2 paragraphs 15,16, and 29, and Figures 1 and 2). It would have been obvious to modify Swix such that the selected local advertisement is provided to a computer and the broadcast video program provided to a television to enable the user to decide which content the user would like to watch at the same time.*

25. *Claim 23 is rejected under U.S.C. 103(a) as being unpatentable over Swix in view of Grube, further in view of Shoff, and further in view of Lobb et al. (Patent Number 6,699,127 hereinafter Lobb).*

*In reference to claim 23, Swix does not teach providing a plurality of display options for customizing a display layout of the interactive content; receiving a user selection of one of the plurality of display options; and customizing the display layout based on the user selection. Lobb teaches providing a plurality of display options for customizing a display layout of the interactive content (col. 2 lines 51 to col. 3 lines 5, col. 4 lines 22-28 and 35-41, and Figures 9a and 9b); receiving a user selection of one*

*of the plurality of display options (col. 4 lines 22-28 and col. 11 lines 55-59); and customizing the display layout based on the user selection (col. 4 lines 35-41, col. 13 lines 57 to col. 14 lines 7, and Figures 9a and 9b). It would have been obvious to modify Swix to include providing a plurality of display options for customizing a display layout of the interactive content; receiving a user selection of one of the plurality of display options; and customizing the display layout based on the user selection to enable the user to view the content from a different perspective than the one presented in the original broadcast to make the display more enjoyable for the user.*

26. *Claim 24 is rejected under U.S.C. 103(a) as being unpatentable over Swix in view of Grube, further in view of Shoff, further in view of Lobb, and further in view of Camut et al. (Patent Number 6,684,257 hereinafter Camut).*

*In reference to claim 24, Swix does not specifically teach the method wherein the plurality of display options are limited based on the type of local device identified by the server system. Camut teaches the method wherein the pluralities of display options are limited based on the type of local device identified by the server system (col. 3 lines 3-35 and Figure 2). It would have been obvious to modify Swix to limit the plurality of display options based on the type of local device identified by the server system to ensure that users can view the content properly on a respective device.*

27. *Claims 15, 16, 25, and 26 are rejected under U.S.C. 103(a) as being unpatentable over Swix in view of Barton et al (6,233,389 hereinafter Barton) and further in view of Official Notice.*

*In reference to claim 15, Swix does not teach the method further comprising: receiving and storing the broadcast event, the interactive content, and the messages in a recording device coupled to at least some of the local devices; and associating the timing of the messages with the programming such that the playback of the broadcast event from the recording device includes the content and messages for being provided at the same relative time as during the broadcast. Barton teaches receiving and storing the broadcast event, the interactive content, and the messages in a recording device coupled to at least some of the local devices (abstract, col. 1 lines 63 to col. 2 lines 3, col. 3 lines 19-29, and Figure 1). Barton is silent about associating the timing of the content messages with the programming such that the playback of the broadcast event from the recording device includes the content and messages being provided at the same relative time as during the broadcast. Official notice is taken that is well known to present interactive content in a playback environment such as when a user plays a game in a playback mode and can take over the control of the game as done in Lobb et al. Patent Number 6,699,127. Additionally, it is well known that if the broadcast includes an associated URL, the URL will be retrieved accordingly at that time in a re-broadcast of the original event. It would have been obvious to modify Swix to include receiving and storing the broadcast event, the interactive content, and the messages in a recording device coupled to at least some of the local devices and associating the timing of the content messages with the programming such that the playback of the broadcast event from the recording device includes the content and messages being provided at the same relative time as during the broadcast to enable users to view the*

*content at a convenient time without losing the feel of the real-time interactive nature of the invention.*

28. *In reference to claim 16, Swix does not teach the method wherein the server system is responsive to a user entering data in response to content displayed during playback of a broadcast event for providing follow-on content related to the user entering data. Official notice is taken that it is well known for interactive playback storage devices to present follow-on content such as a next sequence of scenes in response to a user entering data during a playback of a broadcast event as done when a user plays a game in a playback mode and can take over the control of the game and to retry portions of the game in real-time as disclosed in Lobb et al. Patent Number 6,699,127. It would have been obvious to modify Swix to include the method wherein the server system is responsive to a user entering data in response to content displayed during playback of a broadcast event for providing follow-on content related to the user entering data to maintain the interactive and real-time feel of a previously broadcasted program for the user and to give the user an opportunity to go back in time to experience the event as if it was happening in real-time.*

29. *In reference to claim 25, Swix teaches the method wherein the broadcast video program includes a video signal, wherein the video signal does not include any triggers for accessing the interactive content (col. 11 lines 58 to col. 12 lines 59).*

30. *In reference to claim 26, Swix teaches the method wherein the interactive content is identified by the server system independent of identifying information from the local devices (col. 11 lines 58 to col. 12 lines 59).*

31. *Claim and 30 are rejected under U.S.C. 103(a) as being unpatentable over Swix in view of Official Notice.*

*In reference to claim 30, Swix does not teach the method wherein layout of the interactive content varies depending on the type of local device displaying the interactive content. Official notice is taken that it is well known to vary the layout of any type of content depending on the type of local device displaying the content to present the content such that it becomes possible for the user to view the complete image that is being presented to the user. It would have been obvious to modify Swix to include the method wherein layout of the interactive content varies depending on the type of local device displaying the interactive content to give the user an opportunity to view the content properly on the selected device.*

**Response to Arguments**

32. After careful review of Applicant's remarks/arguments filed on 02/04/2008, the Applicant's arguments with respect to claims 1-32 have been fully considered but are moot in view of the new ground(s) of rejection. Amendments to the claims have both been entered and considered.

33. Applicant's amendment to claim 27, addresses the 35 U.S.C. 101 and the 35 U.S.C. 112 2<sup>nd</sup> paragraph rejections, and these two rejections have therefore been removed.

34. Applicants additional remarks are addressed to new limitations in the claims and have been addressed in the rejection necessitated by the amendments.



**Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Namrata (Pinky) Boveja whose telephone number is 571-272-8105. The examiner can normally be reached on Mon-Fri, 8:30 am to 5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Eric Stamber can be reached on 571-272-6724. The **FAX** number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 1866-217-9197 (toll-free).

/NAMRATA BOVEJA/

Examiner, Art Unit 3622